



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VIII

999 18th STREET - SUITE 500
DENVER, COLORADO 80202-2466

1186318 - R8 SDMS

DEC 23 1992

Ref: 8WM-C

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. David Sell
Rico Development Corporation
c/of McMichael, Benedict, Mutz
1580 Lincoln Street, Suite 900
Denver, Colorado 80203

Re: NPDES Permit No. CO-29793
Notice of Toxicity Reduction
Evaluation Requirement

Dear Mr. Sell:

The Water Management Division of EPA has reviewed the compliance status of Rico Development Corporation ("Rico"). Based upon a file review of Rico's Whole Effluent Toxicity (WET) results, the Agency finds that Rico's discharge has been consistently acutely toxic to *Ceriodaphnia dubia* since the start of routine testing in the last quarter of 1989 through the present. In accordance with the requirements of Rico's EPA-issued NPDES Permit No. CO-29793, EPA is requiring Rico to immediately initiate a Toxicity Reduction Evaluation (TRE) to identify and control its toxic discharge. (See Part I, C.4 of the EPA-issued permit). Within 30 days of receipt of this letter, please provide EPA with documentation to show proof that it has complied with this permit requirement. The documentation should be sent to:

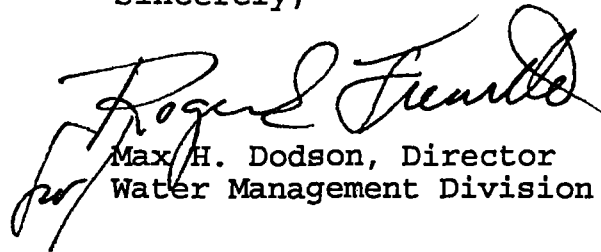
Ms. Deldi Reyes, Enforcement Officer
USEPA, 8WM-C
NPDES Branch
999 18th Street, Suite 500
Denver, Colorado 80202-2466

Because of differences in biomonitoring provisions held by the Colorado Department of Health, Water Quality Control Division ("the Division") and EPA, Rico is operating under two permits and is liable under each. EPA is aware of ongoing communications between Rico and the Division about both the May 18, 1990 Cease and Desist Order issued to Rico, and about the Division's attempts to enforce the WET requirements of its own permit, CDPS No. CO-0029793.

Rico's EPA-issued permit sets a final compliance date of June 4, 1993. At this time, there shall be no acute toxicity in the discharge. The permit defines acute toxicity as 50 percent or more mortality to either test species, *Ceriodaphnia dubia*, or *Pimephales promelas*. Rico is strongly advised that, in the interest of meeting this compliance date and avoiding escalating enforcement by EPA, it should make every effort to control the acute toxicity of its discharge through the required TRE and aggressive follow-up based on its findings.

Should you have any questions, or other information to present, please call Ms. Deldi Reyes of my staff at (303) 293-1832.

Sincerely,



Max H. Dodson, Director
Water Management Division

cc: Anne Ihlenfeldt, CDH